

### REMARKS

The Examiner's rejection of claims 7 and 8 under 35 U.S.C. 102(e) as being anticipated by Ofosu, et al. (U.S. Patent No. 6,268,302) is respectfully traversed. It is applicant's position that the Examiner's previously rejection in paragraphs 4-5 of paper no. 2 are totally inapplicable to amended claims 7 and 8. Specifically, claim 7 had a mass flow rate (MFR) as a claimed element over 50. Claim 7 now has a mass flow rate of over 200 preferably between 350 and 750 which is significantly higher than any examples shown in the Ofosu, et al. patent and as clearly annunciated in the specification of Ofosu, et al. '302. The '302 patent clearly has parameters for the melt flow rate between 50 and to about 150.. This is discussed in column 5, lines 38 through 51 as follows:

"A polyolefin polymer useful in this invention must have a high melt flow rate and low viscosity. The melt flow rate desired for the polyolefin to be used in this invention is at least 50 gms/10 min at 230° C., and preferably in the range from about 50 gms/10 min at 230° C. to about 150 gms/10 min at 230° C. (emphasis added) The viscosity of the polymer is measured at 180° C. and must be at least  $2.5 \times 10^3$  dynes.sec/cm<sup>2</sup> and preferably in the range of about  $2.5 \times 10^3$  dynes.sec/cm<sup>2</sup> to about  $6.5 \times 10^3$  dynes.sec/cm<sup>2</sup>. The high melt flow rate and low viscosity allows the fibers to be drawn more highly than otherwise, producing very fine spunbond fibers. Fibers produced with the high melt flow polyolefin employed herein are in the range of about 11 to about 20 microns in diameter."

It should be noted that applicant's examples in applicant's specification provide specific mass flow rates completely out of the range as discussed in the '302 patent. In Example 1 of the application specification, applicant uses a 350 mass flow rate. The deniers are at .4 per filament. Example 2 also uses 350 mass flow rate and Example 3 has a mass flow rate of 750. This

greatly exceeds the recommended upper limit of about "150" grams/10 min at 230° C. "expressed by the '302 patent." Clearly, this cannot be an anticipation under 35 U.S.C. 102(e) in that each and every element of the invention must be found. Applicant has amended claim 7 to include preferably the mass flow rate between 350 and 750.

More profoundly, something cannot be "A" and not be "A" at the same time. Without trying to argue over specific parameters of mass flow rate, the plain fact is that the invention taught in the '302 patent is completely different than the invention taught and claimed in applicant's invention. The invention discussed and taught in the '302 patent is a spunbond fabric made up of a first web of spunbond fibers having melt flow rate "above" 50 and a second web of spunbond fibers having a melt flow rate "below 50." The first and second webs are bonded together to form a laminate. There is no suggestion whatsoever in applicant's claimed invention or in the teaching of applicant's invention that it requires a laminate made of one layer of fabric having a melt flow rate above 50 and a second layer of fabric that requires a melt flow rate below 50. This shows, without any doubt, that the '302 invention teaches away from applicant's unique claimed invention of a single layer that greatly exceeds 50 or even 150 mass flow rate unitarily without adding another layer of material which is required as part of the '302 invention. Therefore, it is applicant's position that the '302 patent cannot be used to anticipate applicant's invention because it is a completely different invention.

The Examiner's rejections of claims 1, 2 and 3 through 6 under 35 U.S.C. 103(a) as being unpatentable over Lu '468 in view of Ofosu, et al. '302 is respectfully traversed. Applicant herein reasserts the arguments made above with respect to the Examiner's rejection of claims 7

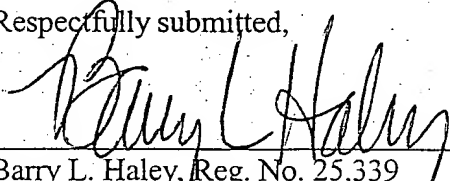
and 8. It is very clear that combining Ofosu, et al. '302 reference with Lu will not produce applicant's claimed invention. Ofosu, et al. teaches a maximum of a mass flow rate of about 150 in conjunction with the requirement that there be a laminate including fibers made from a material having a mass flow rate below 50. Therefore, there is no teaching or suggestion (express or implied) in either the Ofosu, et al. reference or Lu that would suggest applicant's claimed invention. Applicant disagrees that Ofosu, et al. teaches at least one layer has met the requirements is a teaching of the invention.

In the absence of a teaching or suggestion that would result in the claimed invention, a rejection under 35 U.S.C. 103 fails. If anything Ofosu, et al. teaches away from applicant's claimed invention. First, one would not seek high mass flow rates above 150 and one would add other layers with less than 50 mass flow rate, which is not applicant's invention.

Applicant believes that the Examiner should allow claims 1 through 8 as presented as clearly patentable over the art of record.

Any additional charges, including Extensions of Time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,



Barry L. Haley, Reg. No. 25,339  
Malin, Haley & DiMaggio, P.A.  
**Customer No. 22235**  
1936 South Andrews Avenue  
Fort Lauderdale, Florida 33316  
(954) 763-3303  
(954) 522-6507